

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): POUSTCHI, et al.	Conf. No.: 5581
Application No.: 10/762,754	Art Unit: 2614
Filed: 22 Jan 2004	Examiner: GAUTHIER, GERALD
Title: CALL TRANSFER SYSTEM, METHOD AND NETWORK DEVICES	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR **SECOND** REVIEW BY SUPERVISORY PATENT EXAMINER
PURSUANT TO MPEP 707.02

Sir:

Section 707.02 of the MPEP provides, in relevant part,

The supervisory patent examiners are expected to personally check on the pendency of every application which is up for the third or subsequent Office action with a view to finally concluding its prosecution.

and

Any application that has been pending five years should be carefully studied by the supervisory patent examiner and every effort should be made to terminate its prosecution. In order to accomplish this result, the application is to be considered "special" by the examiner.

This application has been pending for over six years, and five Office Actions have issued. The most recent Office Action interprets claim language in a manner that is unlikely to be sustained by the Board of Patent Appeals and interferences. For example, the Office Action indicates that a human being 113 in the applied reference satisfies the claim 1 limitation of a "network device." The rejection also requires that a central computer in the applied reference, which performs the functions of a PBX or a

telephone central office (column 8, lines 18-22), is “one of a telephone, a video phone, a PDA, a soft phone, a wireless device, a wireless telephone and a cell phone” as recited in claim 12. These interpretation are likely to be reversed on appeal and lead to additional Office Actions which will lengthen the prosecution of this application.

Moreover, the examiner has not responded to all Applicant’s arguments as required by MPEP 707.07(f). Responses to some arguments were provided in response to the previous Reply. However, arguments directed to independent claims 22 and 27, which are different from claim 1, have not been addressed. It therefore may be necessary to file a Notice of Appeal to learn how the elements in the applied reference are believed to satisfy the requirements of claims 22 and 27.

If the examiner’s supervisor believes the above issues should be decided by the Board, a Notice of Appeal will likely be filed. However, Applicant submits that prosecution will be concluded more quickly if an appeal of the above issues can be avoided. It is therefore respectfully requested that the examiner’s supervisor once again “check on the pendency” of this application as required by MPEP 707.02 and have the examiner treat this application as “special” so that all claims can be allowed or so that clear issues for appeal can be developed.

Respectfully submitted,

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